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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,670	08/17/2001	Gerard De Haan	PHNL000643US	4537
24737	7590	04/22/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			AN, SHAWN S	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 04/22/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/913,670

Applicant(s)

DE HAAN ET AL.

Examiner

Shawn S An

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Restriction/Election*

1. Applicant's election response as filed on 4/5/04 provisionally elect with traverse, the species I depicted in Fig. 2, which reads on claims 1-5 and 7 have been acknowledged. The traversal is on the ground(s) that there is only one invention claimed. This is not found persuasive because the burden is proved by the two distinct (independent) species, which follows:

Species I and II corresponding to Figures 2 and 3, respectively.

The prior art searching and a prosecution clearly would be a burden based on the two species. Furthermore, a burden and a distinct (independent) are two separate criterion. The burden is met by two species and the distinct (independent) is met by the diverse elements between the drawings, wherein one embodiment is not deemed obvious over any other species identified.

Therefore, the requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-5 are rejected under 35 U.S.C. 102(a) as being anticipated by De Haan et al (WO 99/16251).

Regarding claims 1-5, De Haan et al discloses a device/method for motion estimation in video image data comprising a digital memory (Fig. 3, SC, SM) for storing a first and a second video image, in which method, starting from a first (n-1) and a second video image (n) parameter sets of two or more motion models are determined (PE<sub>n</sub>), characterized in that only parts of the image area (image parts) are taken into account for determining the parameter sets, in which the first video image is distinguished from the second video image (page 6, lines 13-26).

De Haan et al further discloses means for block-wise evaluation of the deviations between the current and the previous video image and selection of those blocks for use of the selection criterion, in which the value of the deviation exceeds a predetermined threshold value (page 7, lines 7-20; page 8, lines 14-20; page 30, lines 8-11).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (5,612,743) in view of Lee et al (5,933,535).

Regarding claim 7, Lee discloses a device/method for motion estimation in video image data comprising a first and a second video image (current frame; reference frame) and computes parameter sets of two or more motion models (Fig. 3, 310, 311) and supplies motion data describing the displacement of image objects (motion vectors) from the previous to the current image, wherein the image data of two video images are compared with each other and only those parts of the image area (region selecting) in which there are significant differences between the two video images are taken into account in the computation of the parameter sets (abs.).

Lee fails to disclose a computer program product for motion estimation.

However, Lee et al teaches a computer program product for motion estimation (Fig. 1, 20).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing the device/method of motion estimation as taught by Lee to incorporate the computer program product for motion estimation as taught by the Lee et al so as to save costs associated with the hardware.

### ***Conclusion***

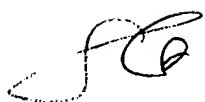
6. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Shawn S An whose telephone number is 703-305-0099. The examiner can normally be reached on Flex hours (10).

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8. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SHAWN S. ALI  
PATENT EXAMINER

SSA

Primary Patent Examiner

4/16/04